

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

MALAK BAALIM,

Plaintiff,

vs.

JUDGE KATHERINE FOWLER,

Defendant.

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Case No. 4:21-CV-1411 ACL

**OPINION, MEMORANDUM AND ORDER**

This matter is before the Court on the filing of a complaint by self-represented plaintiff Malak Baalim. For the reasons discussed below, plaintiff will be directed to file an application for leave to proceed *in forma pauperis* or pay the full \$402 filing fee. Plaintiff will also be directed to file an amended complaint on a Court-provided form.

**Background**

On November 30, 2021, plaintiff, otherwise known as Norbert K.O. Cody II, filed a civil action titled “New Civil Suite.” The complaint is handwritten and not on a Court form. Plaintiff complains that Judge Katherine Fowler, the Judge presiding over his state court criminal case, will not allow him to represent himself in his criminal proceedings. He states that although he has finally “retained” a public defender, he is still held in detainment pending trial. Plaintiff claims that he does not feel like the public defender could represent his interests because he is still the “State of Missouri.” Additionally, he states in a conclusory manner that his 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> Amendments have been violated by the state court and the prosecutors for a number of reasons. Plaintiff has not articulated the relief he is seeking in this action.

**Discussion**

Under the Local Rules of this Court: “An application to proceed *in forma pauperis* shall be accompanied by a statement of the applicant’s financial information set forth on a form provided

by the Court. “The Court may require the submission of additional information in a particular case.” E.D. Mo. L.R. 2.05(A). Additionally, the Clerk can return any complaint submitted for filing *in forma pauperis* which is not accompanied by an affidavit as required by 28 U.S.C. § 1915(a). E.D. Mo. L.R. 2.05(C). Under 28 U.S.C. § 1915(a)(1), the affidavit should include “a statement of all assets.”

The Court may authorize the commencement or prosecution of a civil action without prepayment of fees if the plaintiff demonstrates that he “is unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a)(1). *In forma pauperis* status is a matter of privilege, not of right. *Williams v. McKenzie*, 834 F.2d 152, 154 (8th Cir. 1987). To enjoy the statute’s benefits, a litigant need not show that he is “absolutely destitute,” but he must demonstrate that, because of his poverty, he cannot pay for the litigation costs and still be able to provide for the necessities of life. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948); *see also Lee v. McDonald’s Corp.*, 231 F.3d 456, 459 (8th Cir. 2000). Determining whether to grant or deny *in forma pauperis* status under § 1915 is within the sound discretion of the trial court. *Lee*, 231 F.3d at 458.

Plaintiff will be directed to either file a motion for leave to proceed *in forma pauperis* with the required financial information or pay the full \$402 filing fee for this case to proceed. Because plaintiff is currently incarcerated, he must also provide the Court with a certified prison account statement setting forth the past six months of his account in custody, prior to filing his complaint.

Additionally, plaintiff will be directed to file an amended complaint on a Court-provided form. *See* E.D. Mo. L.R. 2.06(A) (“All actions brought by self-represented plaintiffs or petitioners should be filed on Court-provided forms”).

Plaintiff will be given twenty-one (21) days in which to comply. Failure to submit an amended complaint on a Court-provided form, and to either pay the \$402 filing fee or file a motion

to proceed *in forma pauperis* accompanied by an account statement, will result in the dismissal of this action without prejudice and without further notice.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff must either file an application to proceed in district court without prepaying fees of costs on a Court-provided form, accompanied by a certified prison account statement, or pay the full \$402 filing fee within **twenty-one (21) days of the date of this Memorandum and Order**. Plaintiff must follow the instructions provided on the Court form.

**IT IS FURTHER ORDERED** that plaintiff shall submit an amended complaint on a Court-provided form within **twenty-one (21) days of the date of this Memorandum and Order**.

**IT IS FURTHER ORDERED** that the Clerk of Court shall send to plaintiff a copy of the Court's form application to proceed in district court without prepaying fees of costs.

**IT IS FURTHER ORDERED** that the Clerk of Court shall mail to plaintiff a blank Prisoner Civil Complaint form.

**IT IS FURTHER ORDERED** that if plaintiff fails to timely comply with this Memorandum and Order, the Court will dismiss this action without prejudice and without further notice.

Dated this 2<sup>nd</sup> day of December, 2021.



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HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE